

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

GULFSIDE, INC.,

Plaintiff,

v.

Case No: 2:19-cv-851-SPC-MRM

LEXINGTON INSURANCE
COMPANY,

Defendant.

_____ /

ORDER¹

Before the Court is Defendant's Amended Notice of Settlement ([Doc. 100](#)). The Court entered an Amended Judgment—dismissing Count 1 without prejudice and entering judgment in favor of Plaintiff on Count 2. ([Doc. 90](#)). After, Plaintiff moved for attorney's fees. ([Doc. 91](#)). Yesterday, Defendant filed a Notice of Settlement, saying “the parties reached an amicable settlement of all claims” while asking for thirty days to finalize settlement and file a stipulated dismissal with prejudice. ([Doc. 98](#)). So the Court entered its standard Endorsed Order under the Local Rules to dismiss all claims without prejudice and allow thirty days before the dismissal becomes with prejudice.

¹ Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

Now, Defendant clarifies the parties “settled all matters relating to and arising out of Count [2] for breach of contract and the pending Motion to Determine Entitlement to Attorney’s Fees and Expenses.” ([Doc. 100 at 1](#)). And there was no settlement regarding Count 1. With the settlement clarified, the Court vacates its Endorsed Order ([Doc. 99](#)). In its place, the Court dismisses Count 2 without prejudice and allows thirty days for the parties to file their joint stipulated dismissal of Count 2 (and attorney’s fees associated with it). If no party files anything by that deadline, the Clerk will enter an amended judgment dismissing only Count 2 with prejudice.

Accordingly, it is now


ORDERED:

1. The Clerk is **DIRECTED** to **VACATE** the previous Order ([Doc. 99](#)).
2. As the parties have settled Count 2 and related attorney’s fees, the Court dismisses Count 2 without prejudice. *See* [M.D. Fla. R. 3.09\(b\)](#).

Accordingly, it is **ORDERED** that Count 2 is **DISMISSED without prejudice** subject to the right of a party to move to reopen the case for entry of a stipulated final order or a judgment or for further proceedings **on or before November 22, 2021**. *See* [M.D. Fla. R. 3.09\(b\)](#). If no party files an appropriate paper by that deadline, then the Clerk is **DIRECTED** (without further order) to enter an amended judgment dismissing Count 2 with prejudice. The Clerk is

DIRECTED to deny all pending motions as moot, terminate any deadlines, and close the case.

DONE and **ORDERED** in Fort Myers, Florida on October 21, 2021.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record